

T/X

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

O. A. No. 457/1997

Tuesday this the 8th day of February, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

Baij Nath aged about 48 years  
son of late Sri Munnar, resident of  
SSI 504, Sector I, Sitapur Road  
Scheme, Paltan Police Station Aliganj,  
Lucknow. ... Applicant

(By Advocate Mr. C.B. Verma)

Vs.

1. Union of India through the  
Registrar General of India, New Delhi.
2. The Director of Census Operators  
UP, Lucknow.
3. The Dy. Director of Census (Adm)  
6 Park Road, Lucknow. ... Respondents

(By Advocate Mr. A. Kumar)

The application having been heard on 8.2.200, the Tribunal  
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

who

The applicant is a person belongs to Scheduled  
Caste Community was appointed on the post of Assistant Compiler  
by respondent No.2 with effect from 3.7.90 by order Annexure.I  
on a temporary basis. Though persons similarly engaged as  
the applicant were regularised in the year 1976 itself, the  
applicant was not regularised then but was regularised only  
in the year 1979 allegedly for the reason that the applicant  
without permission studied and passed LLB and M.Com. However  
later on respondent No.2 issued orders promoting the applicant  
as Computer with effect from 20.3.80. The applicant was further  
contd...

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promoted as Statistical Assistant w.e.f. 10.5.83, In the seniority list of Statistical Assistants (Annexure.5) the applicant was shown at Sl.No.106. The present grievance of the applicant is that the respondents have issued the impugned order Annexure.7 dated 17.7.92 by which Shri Ram Nihor Ram and Shri K.K. Jaisal have been assigned seniority at Sl.No.105 and 106 pushing the applicant down to Sl.No.108. The applicant states that he has been continuously and unnecessarily harassed and impugned order pushing him down in the seniority is also one of the manifestations of the harassment metted out to him. The applicant has, therefore, filed this application for a direction to the respondents not to disturb his seniority at Sl.No.106 as done by the impugned order and to regularise the service of the applicant since 1976 as similarly situated persons had been regularised with effect from that date.

2. The respondents in their reply affidavit seek to justify the impugned order altering the seniority of the applicant vis-a-vis Ram Nihor Ram and K.K. Jaisal on the ground that these two persons regularised as Assistant Compilers in the year 1976 were senior to the applicant as the applicant though was working on adhoc basis earlier *was* only in the year 1979 as he was not found fit for regularisation in 1976 by the DPC, that they were also promoted as Computer w.e.f. 28.3.1980 and as Statistical Assistant w.e.f. 10.5.83, that as they were reverted in 1987 their names did not figure in the seniority list finalised in the meanwhile (Annexure.5) and that on their representations the competent authority ordered restoration of promotion as Statistical Assistants with continuity, they have been properly assigned the seniority position as per the impugned order. The respondents contend that Shri *contd...*

Ram Nihor Ram and Shri Jaisal being senior to the applicant in regular service as Assistant Compilors, they have continued to be senior to the applicant and the applicant is not entitled to challenge his non-regularisation of the year 1976 at this distance of time.

3. We have gone through the pleadings and the materials placed on record and have heard the learned counsel of the applicant as also Shri A.K. Chaturvedi, learned counsel for the respondents. A part of the relief which is claimed in this application is outside the jurisdiction of this Tribunal because the applicant is seeking regularisation with effect from the year 1976. When the applicant was not regularised in the year 1976 along with persons similarly situated like him were regularised, his grievance if any arose in the year 1976. This grievance of the applicant having arisen long prior to a period of three years prior to the commencement of the Administrative Tribunals Act, this Tribunal has no jurisdiction to consider the grievances at this distance of time. Further the case of the applicant that he is senior to Ram Nihor Ram and K.K. Jaisal cannot be sustained for the reason that these two persons had been regularised on the post of Assistant Compilors in the year 1976 whereas the applicant stood regularised only w.e.f. 1979. It is settled law that seniority in a cadre is reckoned on the basis of date of continued officiation on a regular post. The applicant having commenced his regular service as Assistant Compilor three years after Ram Nihor Ram and K.K. Jaisal, under no

contd...



stretch of imagination he can be held to be senior to them. The impugned order Annexure.7 has been passed only as a consequence of the decision taken by the competent authority to restore the promotion of Ram Nihor Ram and K.K. Jaisal by the orders Annexure.C2 and C3 considering representations. Further the applicant is seeking to have the seniority over Shri Ram Nihor Ram and Shri K.K. Jaisal by filing an application without impleading them.

4. In the result, we find no merit in this application. Hence, the application is dismissed leaving the parties to bear their own costs.

Dated the 8th day of February, 2000

  
J.L. NEGI  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

s.